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Fighting for Employee Justice



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APPLICATION GRANTED

SO ORDERED 

VERNON S. BRODERICK

U.S.D.J.

Jon L. Norinsberg, Esq.
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Plaintiff is directed to move for default judgment by March 5, 2024. If Plaintiff fails to do so, I will dismiss this case for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b). The Clerk of Court is respectfully directed to reopen this case.

Dated: March 4, 2024

VIA ECF

The Honorable Vernon S. Broderick, U.S.D.J.
U.S District Court for the Southern District of New York
40 Foley Square
New York, New York 10007

Re: **Pagan v. Luccello**
Case No.: 24 Civ.00104 (VSB)

Dear Judge Broderick:

We represent plaintiff Christopher Pagan in the above referenced Americans with Disabilities Act (“ADA”) matter. We write now to respectfully request that the Court reinstate the above action, and upon doing so, permit Plaintiff’s counsel to file, *nunc pro tunc*, a motion for a default judgment.

By way of background, on January 23, 2024, our office served Defendant with the Complaint and supporting documents in this action. (Doc. No. 6 - Affidavit of Service). The Defendant did not answer or otherwise move in the time prescribed by the Court. On February 15, 2024, the owner of Defendant’s company, Denis Stepansky, sent an email to our office demanding that the matter be dismissed. However, Mr. Stepansky did not request Plaintiff’s consent for additional time to answer or otherwise move.

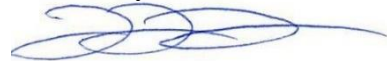
On February 20, 2024, Your Honor issued an Order (Doc. No. 7) directing Plaintiff to inform this Court whether we intend to seek a default judgment, in accordance with Rule 4(H) of the Court’s Individual Rules and Practices, by no later than February 26, 2024. The Court further warned that if “[P]laintiff fails to do so or otherwise demonstrate that he intends to prosecute this litigation, I may dismiss this case for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b).” (*Id.*)

Regrettably, as the Court is now aware, our office failed to a motion for a default judgment in a timely manner. We sincerely apologize to the Court for this oversight, as our firm failed to properly docket the Court’s deadline on our calendar. We can assure the Court that this mistake will not happen again in the future.

Based on the foregoing, we respectfully request that the Court reopen this matter to active status, and upon doing so, allow Plaintiff to promptly file a motion for a default judgment. Should the Court grant this relief, Plaintiff will file his motion for a default judgment no later than Monday, March 4, 2024.

We thank the Court for its consideration of our request.

Sincerely,

A handwritten signature in blue ink, consisting of stylized, overlapping loops and a long horizontal stroke extending to the right.

Jon L. Norinsberg, Esq.